southern
utah
wilderness
alliance

HAND DELIVERED

August 4, 2008

Selma Sierra –State Director
Utah State Director, Bureau of Land Management
440 West 200 South, 5th Floor
P.O. Box 45155
Salt Lake City, Utah 84145-0155

Re: Protest of Bureau of Land Management's Notice of Competitive Oil and Gas Lease Sale to Be Held on August 19, 2008

Greetings,

In accordance with 43 C.F.R. §§ 4.450-2 and 3120.1-3, the Southern Utah Wilderness Alliance (SUWA) hereby timely protests the August 19, 2008, offering, in Salt Lake City, Utah, of the following seven parcels involving approximately 4,372 acres in the Cedar City, Price, Richfield, and Vernal field offices:

Cedar City Field Office: UT0808-047, UT0808-74, UT0808-075 (3 parcels)

Price Field Office: UT0808-083 (1 parcel)

Richfield Field Office: UT0808-081, UT0808-082 (2 parcels)

Vernal Field Office: UT0808-088 (1 parcels)

As explained below, the Bureau of Land Management's (BLM's) decision to sell the seven parcels at issue in this protest violates, among other federal laws and regulations, the National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq. (NEPA), the National Historic Preservation Act, 16 U.S.C. §§ 470 et seq. (NHPA), and the regulations and policies that implement these laws.

SUWA requests that BLM withdraw these seven lease parcels from sale until the agency has fully complied with all the federal laws, regulations, and executive orders discussed herein. Alternatively, the agency could attach unconditional no surface occupancy stipulations to each parcel and proceed with the sale of these parcels.

The grounds for this Protest are as follows:

A. Leasing the Contested Richfield, Price, and Vernal Parcels Violates NEPA and the NHPA

1. The Richfield, Price, and Vernal Determinations of NEPA Adequacy Fail to Adequately Consider the No Leasing Alternative for Parcels UT0808-081, UT0808-082, UT0808-083, and UT0808-088

NEPA requires that the BLM prepare a pre-leasing NEPA document that fully considers and analyzes the no leasing alternative before the agency engages in an irretrievable commitment of resources, i.e., the sale of non-no surface occupancy oil and gas leases. See Southern Utah Wilderness Alliance v. Norton, 457 F. Supp. 2d 1253, 1262-1264 (D. Utah 2006); Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-30 (9th Cir. 1988) (requiring full analysis of no leasing alternative even if an environmental impact statement (EIS) not required); Montana Wilderness Ass'n. v. Fry, 310 F. Supp. 2d 1127, 1145-46 (D. Mont. 2004); Southern Utah Wilderness Alliance, 164 IBLA 118, 124 (2004) (quoting Pennaco Energy, Inc. v. U.S. Dep't of the Interior, 377 F.3d 1147, 1162 (10th Cir. 2004)). Importantly, BLM's pre-leasing analysis must be contained in its already completed NEPA analyses because, as the Interior Board of Land Appeals recognized in Southern Utah Wilderness Alliance, "[determinations of NEPA adequacy (DNAs)] are not themselves documents that may be tiered to NEPA documents, but are used to determine the sufficiency of previously issued NEPA documents." 164 IBLA at 123 (citing Pennaco, 377 F.3d at 1162).

The Richfield, Price, and Vernal DNAs fail to adequately consider the no leasing alternative. The DNAs must quantify the environmental and socio-economic costs and benefits of adopting this alternative. The discussions of the no leasing alternatives do not meet the "rule of reason" test applied by both the Interior Board of Land Appeals and the courts.

i. The Vernal DNA Does Not Adequately Consider the No Leasing Alternative for Parcel UT0808-088

The Vernal DNA fails to adequately address the no leasing alternative. The Vernal Field Office DNA states that, "[t]he 1975 Environmental Analysis Record analyzed the impacts of oil and gas leasing in the resource area under two alternatives. The two alternatives were leasing and no leasing." Vernal DNA at 3. A review of the Vernal Environmental Analysis Record (EAR), however, reveals that the "no-lease" alternative was summarily dismissed and was not, in fact, analyzed, considered, and evaluated. See Southern Utah Wilderness Alliance, 457 F. Supp. 2d at 1262-1264. In addition, lands in parcel UT0808-088 are managed under the 1993 Diamond Mountain Resource Management Plan (DMRMP). The DNA states that the DMRMP "analyzed the impacts of oil and gas leasing on all lands in the resource area under five different alternatives." Vernal DNA at 3. In fact, the DMRMP only analyzed *four* alternatives, and completely failed to address the no leasing alternative. DMRMP at 2.26-2.39. Therefore, the Vernal DNA inaccurately states the alternatives that were analyzed in the DMRMP, and relies on the DMRMP and 1975 EAR which fail to adequately address the no leasing alternative. Thus, BLM must defer leasing Vernal parcel UT0808-088 until the BLM conducts an adequate pre-leasing analysis.

ii. The Price DNA Does Not Adequately Consider the No Leasing Alternative

The Price DNA fails to adequately address the no leasing alternative for parcel UT0808-083. The Price Field Office DNA states that, "[i]n the 1975 District Oil and Gas Environmental Analysis (EA), BLM evaluated leasing and one alternative, to not allow leasing." Price DNA at 2-3. In fact, the 1975 EAR discusses a *no action* alternative, which is a continuation of the leasing categories established previously, not a *no leasing* alternative. 1975 Price EAR at 31-32. And, the 1975 EAR states only that:

> [t]he 'no action alternative' would be not to allow leasing of National Resource Lands in the San Juan and Canyon Resource Areas. However, it appears that this alternative for the district as a whole is not feasible at this time because the district is committed to oil and gas development . . . . As long as petroleum development is kept within acceptable environmental limits it should be encouraged. Therefore, until local, national, and international situations change, the alternative of not allowing district-wide leasing for oil and gas is not considered to be a reasonable alternative. Therefore, no further discussion of this alternative will be made in this analysis.

1975 Price EAR at 32. Accordingly, after this single paragraph, the BLM offered no further analysis in the 1975 EAR of the no action alternative.

In a matter clearly on point – considering whether the Price EAR constituted a sufficient pre-leasing NEPA document - the Utah Federal District Court explicitly considered the IBLA's ruling in Southern Utah Wilderness Alliance (On Reconsideration), 166 IBLA 270A, and determined that the Price EAR did not constitute adequate NEPA.[1] See Southern Utah Wilderness Alliance, 457 F. Supp. 2d at 1262-64. The court stated:

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[1] The court stated the following:

> [s]ince taking the appeal under advisement, the court has further considered the law and facts relating to the appeal. The court has also considered the Utah BLM's submission of supplemental authority, filed on June 2, 2006, and SUWA's response to that submission, filed on June 5,

> [t]he BLM contends that SUWA's argument that the Price EAR failed to consider a no leasing alternative is factually incorrect. ... The court applies a "rule of reason analysis to determine whether the range of alternatives the BLM considered and the extent to which it discuss[ed] them," was adequate. [*Utahns for Better Trans. V. U.S. Dep't of Trans.*, 305 F.3d 1152, 1166-67 (10th Cir. 2002) (citation omitted); *Davis v. Mineta,* 302 F.3d 1104,1120 (10th Cir. 2002)]. Neither the Price nor Richfield EAR gave the necessary "full and meaningful consideration" to the no leasing alternative – or any other alternatives to the proposed action – as required by NEPA.

Id. at 1263 n.9.

Because BLM failed to address the no leasing alternative, it must defer leasing parcel UT0808-083 until it conducts an adequate pre-leasing NEPA analysis.

iii. The Richfield DNA Does Not Adequately Consider the No Leasing Alternative

The Richfield Field Office DNA does not adequately address the no leasing alternative. Instead, the Richfield DNA states that, "[i]n the 1975-76 District Oil and Gas EAs, BLM evaluated one alternative to leasing which is to not allow leasing." Richfield DNA at 4. However, the 1976 Fillmore EAR and accompanying EA do not adequately address the no leasing alternative, but state only that:

> [t]he obvious alternative to the proposed action would be to not lease the oil and gas resources in the district. Upon closer examination it becomes evident that this alternative is viable only when there will be a significant irreversible negative impact on the environment or an irretrievable commitment of resources having higher values. Therefore this analysis should identify any such areas that may be found in the district, and the alternative of the suspended or no leasing will be included as a mitigating measure to protect these areas.

> 2006. Now being fully advised, the court renders the following Memorandum Decision and Order.

Southern Utah Wilderness Alliance, 457 F. Supp. 2d at 1254. The Utah BLM's submission of supplemental authority, filed on June 2, 2006, included a copy of Southern Utah Wilderness Alliance (On Reconsideration), 166 IBLA 270A, and briefly discussed that ruling.

Fillmore EAR at 11. However, the "analysis" contained in the Fillmore EAR begins and ends with this single paragraph. Likewise, the 1975 Richfield Oil and Gas Leasing EAR and accompanying EA also fail to adequately analyze the no leasing alternative. 1975 Richfield EAR at 40, 128-29. Adding insult to injury, the Richfield DNA states that, "[i]n the 1988 Implementation EA (p.2), alternative proposals to the proposed action are not evaluated . . . because the potential impacts to the environment from oil and gas leasing are adequately analyzed in the 1975-76 EAs, and no further study of alternatives is warranted." Richfield DNA at 4. As previously stated, the 1975-76 EARs reveal that BLM failed to adequately analyze the no leasing alternative. See Southern Utah Wilderness Alliance, 457 F. Supp. 2d at 1262-64 (holding that Richfield and Price EARs did not adequately consider the no leasing alternative). Thus, BLM must defer leasing Richfield parcels UT0808-081 and UT0808-082 until the BLM conducts an adequate pre-leasing analysis.

2. Stipulations Included in the Richfield, Price, and Vernal DNAs Must Be Included in the Final Sale List

In the Richfield DNA, agency staff identified a stipulation (UT-S-07) that must attach to UT0808-081 and UT0808-082 in order to protect deer and elk crucial winter/spring range. Richfield DNA Staff Report at 2. Therefore, "exploration, drilling, and other development activity, in the Richfield Field Office, will not be allowed during the period from December 15 through May 15." *Id.* In the Final Sale List, neither lease parcel UT0808-081 nor UT0808-082 contain the proposed stipulation.

For the above-listed reasons, BLM must defer leasing parcels UT0808-081, UT0808-082 and UT0808-083.

3. Vernal Parcel UT0808-088 Should Be Deferred Because It Is Located in the Red Mountain-Dry Fork Complex Area of Critical Environmental Concern (ACEC) and BLM Failed to Adequately Protect ACEC Values

The majority of Vernal Field Office parcel UT0808-088 is located within the existing Red Mountain-Dry Fork Complex ACEC and sale of this parcel should be deferred until the ACEC values are adequately protected. Vernal DNA at 6. See Vernal DNA Interdisciplinary Checklist at 1. A portion of parcel UT0808-088 was deferred to protect a sage grouse lek and Mexican spotted owl habitat. Because the portion of the parcel that remains offered for the August 2008 lease sale is adjacent to the deferred portion, BLM must take additional precautions to ensure that any surface-disturbing activities on the remaining portion protect these species. Specifically, no exploration, drilling or other development should be conducted between March 1st and June 15th; surface occupancy in areas of historic or present sage grouse use must be avoided; and the habitat surrounding leks must be protected because it serves as nesting and rearing habitat for sage grouse. See Vernal DNA at 38. In addition, before any work is commenced, surveys must be conducted to determine whether sage grouse or Mexican spotted owls will be impacted. See Vernal DNA at 38.

Given the sensitivity of the land and species surrounding parcel UT0808-088, and the significant concerns that led to the deferral of all or part of ten other proposed lease sales in the Vernal Field Office, the sale of parcel UT0808-088 should similarly be deferred until the serious impacts that could result from drilling in this sensitive area are adequately addressed.

4. BLM Richfield, Price, and Vernal Field Offices Violated the NHPA by Failing to Adequately Consult with the Tribes

The NHPA requires BLM to "determine and document the area of potential effects, as defined in [36 C.F.R.] § 800.16(d)," identify historic properties, and to affirmatively seek out information from the State Historic Preservation Officer (SHPO), Native American tribes, consulting parties, and other individuals and organizations likely to have information or concerns about the undertaking's potential effects on historic properties. 36 C.F.R. § 800.4(a). See Southern Utah Wilderness Alliance, 164 IBLA at 23-24 (quoting Montana Wilderness Ass'n, 310 F. Supp. 2d at 1152-53). The NHPA further states that BLM shall utilize the information gathered from the source listed above and in consultation with at a minimum the SHPO, Native American tribes, and consulting parties "identify historic properties within the area of potential affect." Id. § 800.4(b). See id. § 800.04(b)(1) (discussing the "level of effort" required in the identification process as a "reasonable and good faith effort to carry out appropriate identification efforts").

The BLM is violating the NHPA by failing to adequately consult with tribes regarding the effects of leasing all the protested parcels. Such consultation must take place before the BLM makes an irreversible and irretrievable commitment of resources – in other words before the August 19, 2008 lease sale. See Southern Utah Wilderness Alliance, 164 IBLA 1 (2004). The NHPA requires BLM to "determine and document the area of potential effects, as defined in [36 C.F.R.] § 800.16(d)," identify historic properties, and to affirmatively seek out information from the SHPO, Native American tribes, consulting parties, and other individuals and organizations likely to have information or concerns about the undertaking's potential effects on historic properties.

36 C.F.R. § 800.4(a). See Southern Utah Wilderness Alliance, 164 IBLA at 23-24 (quoting Montana Wilderness Assoc., 310 F. Supp. 2d at 1152-53). The NHPA further states that BLM shall utilize the information gathered from the source listed above and in consultation with at a minimum the SHPO, Native American tribes, and consulting parties "identify historic properties within the area of potential affect." Id. § 800.4(b). See id. § 800.04(b)(1) (discussing the "level of effort" required in the identification process as a "reasonable and good faith effort to carry out appropriate identification efforts").

In addition, the DNA process violates the NHPA and Protocol § IV.C., which states that "BLM will seek and consider the views of the public when carrying out the actions under terms of this Protocol."[2] As BLM's DNA forms plainly state, the DNA process is an "internal decision process" and thus there is no opportunity for the public to participate in the identification of known eligible or potentially eligible historic properties. Permitting public participation only at the "protest stage," or arguing that the time period for seeking public input ended when BLM completed its dated resource management plans, is not equivalent to encouraging participation in an open NEPA process, and BLM should withdraw the four contested parcels in the Price, Richfield, and Vernal field offices that are the subject of this protest.

In accordance with the recent Interior Board of Land Appeals (IBLA) decision in Southern Utah Wilderness Alliance, IBLA 2004-124, the record here does not demonstrate that the Price, Richfield, or Vernal field offices adequately consulted with

[2] Because the National Programmatic Agreement – which the Protocol is tiered from – was signed in 1997, well before the current NHPA regulations were put in place, it is questionable whether either document remains valid. This further reinforces the need for BLM to fully comply with the NHPA's Section 106 process.

the Native American tribes. See Southern Utah Wilderness Alliance, IBLA 2004-124 at 12 (holding that BLM failed to meaningfully consult with Native American tribes). In short, the form letters that these offices sent to various tribes suffers from the same flaw that the IBLA recently held to be fatal to BLM's consultation efforts.

Before beginning surface-disturbing activities, BLM must inform the tribes under their NHPA obligations. Furthermore, because parcel UT0808-088 lies on land important to the Ute tribe, BLM must include the Utes in any decision-making regarding parcel UT0808-088. *See* DMRMP at 3-28. As the Tenth Circuit has stated, brief conversations with, or form letters to, tribal councils or leaders regarding the potential effects of oil and gas leasing and development are insufficient to meet BLM's duty under the NHPA to make a "reasonable and good faith effort" to seek information from Native American tribes. See Pueblo of Sandia v. United States, 50 F.3d 856 (10th Cir. 1995). In order to meet its obligations under the NHPA, BLM must involve the Utes and other tribes in a more significant way than simply mailing form letters that do not reveal the extent of the surface-disturbing activity that will occur on lands of great significance to the tribe.

In addition, a cultural inventory must be done prior to conducting surface-disturbing activities to ensure that cultural and historic properties are not impacted. Because no inventory work has been done on some of the areas proposed for lease, including on parcel UT0808-081, no archaeological sites have been recorded there. Richfield DNA Staff Report at 4. Should any sites be discovered, BLM must complete its obligations under the NHPA before approving surface-disturbing activities. See Richfield DNA Staff Report at 4.

For the above-listed reasons, BLM must defer leasing the four parcels at issue here, UT0808-081, UT0808-082, UT0808-083, and UT0808-088 until the agency fully and adequately consults with Native American tribes.

B. Leasing the Three Contested Cedar City Parcels Violates NEPA

The Cedar City Leasing EA fails to comply with NEPA and its implementing regulations. The EA neither fully informs the public or the decision-maker as to all of the issues associated with this proposal, nor does it adequately analyze the potential impacts of the proposed action to many of the resources that the BLM manages. Further, it is unclear whether parcel UT0808-75 is covered by the lands analyzed in the leasing EA. To the extent that it is not, BLM must defer leasing until it prepares a DNA to consider whether existing NEPA is sufficient to authorize the sale of this parcel. Finally, SUWA questions BLM's decision to proceed with the sale of any parcels in the Cedar City Field Office – and specifically parcels UT0808-047, UT0808-074, and UT0808-075 – because the agency has not finalized the leasing EA and issued a finding of no significant impact/decision record (FONSI/DR) or decided that an environmental impact statement is required before the close of the protest period. BLM's apparent prejudgment that an EIS will not be prepared violates NEPA. See Davis, 302 F.3d at 1112.

1. BLM Must Postpone the Sale of the Three Protested Parcels Because the Cedar City Leasing EA Fails to Consider Impacts to Air Quality and Climate Change

As SUWA stated in extensive detail in its comments on the Draft Cedar City Leasing EA, the EA completely fails to consider the potential impacts of oil and gas development activity on air quality and air quality-related values in the planning area and surrounding areas. SUWA is particularly concerned with parcels UT0808-047, UT0808-

074, and UT0808-075 because they are adjacent to the proposed Parowan Gap ACEC, Spring Creek Canyon wilderness study area (WSA), and Zion National Park, respectively, and degradation of air quality would detract from these spectacular lands. Furthermore, the EA also fails to consider the impacts for all of the sixty-two parcels in the Cedar City Field Office listed for sale on global warming. Because the Cedera City Leasing EA is not yet final, SUWA cannot determine whether the final version of the Cedar City Leasing EA will adequately addresses air quality and climate change, but SUWA preserves all of its arguments addressed in its June 2008 comments regarding the Draft Cedar City Leasing EA.

2. BLM Failed to Take the Required "Hard Look" at Whether Its Existing Analyses Are Valid in Light of New Information or Circumstances

NEPA requires federal agencies to take a hard look at new information or circumstances concerning the environmental effects of a federal action even after an EA or an EIS has been prepared, and to supplement the existing environmental analyses if the new circumstances "raise[] significant new information relevant to environmental concerns." Portland Audubon Soc'y v. Babbitt, 998 F.2d 705, 708-09 (9th Cir. 1993). Specifically, an "agency must be alert to new information that may alter the results of its original environmental analysis, and continue to take a 'hard look' at the environmental effects of [its] planned actions." Friends of the Clearwater v. Dombeck, 222 F.3d 552, 557 (9th Cir. 2000). See Southern Utah Wilderness Alliance v. Norton, 457 F. Supp. 2d at 1264-69 (discussing supplemental NEPA requirement in the context of oil and gas leasing and concluding that BLM acted arbitrarily by proceeding with oil and gas lease sale without first preparing supplemental NEPA analyses). NEPA's implementing

regulations underscore an agency's duty to be alert to, and to fully analyze, potentially significant new information. The regulations declare that an agency "shall prepare supplements to either draft or final environmental impact statements if . . . there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(c)(1)(ii) (emphasis added).

As explained below, the Cedar City field office failed to take a hard look at new information and new circumstances that have come to light since BLM released the draft Cedar City Leasing EA.

i. The Sale of Parcel UT0808-047 Must Be Deferred Because the EA Fails to Take Account of Significant New Information Regarding the Proposed Parowan Gap ACEC

In June 2008, SUWA nominated the Parowan Gap area for designation as an ACEC, due largely to the extensive and sensitive cultural resources found within the area. See SUWA Parowan Gap ACEC Nomination. When developing and revising land use plans, the BLM must give priority to designating ACECs. Federal Land Policy and Management Act (FLPMA), Title II, Section 202(c)(3). ACECs require "special management attention . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values." FLPMA, Title I, Section 103(a). Thus, BLM's decision of whether to designate the Parowan Gap ACEC – or at a minimum whether SUWA's proposal, and significant new information not previously analyzed in the CBGA RMP/EIS or the Cedar City Leasing EA contained therein, demonstrates that important and relevant values exist – must come *before* the sale of any parcels that could damage the important values of a potential ACEC.

Because parcel UT0808-047 is adjacent to the proposed ACEC and could severely impact the values described in the ACEC nomination, namely the historic, cultural, and scenic opportunities, as well as the known occurrences of the threatened and sensitive species such as the Mexican spotted owl, the Utah prairie dog, and the greater sage grouse, SUWA contests its sale. In fact, BLM admits in its Cedar City Leasing EA that, "[i]f leasing were to occur on parcels adjacent to the Parowan Gap, adverse effects including the introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's important historic features would occur." Cedar City Draft Leasing EA at 40. For the above-listed reasons, the sale should be deferred until a decision has been made regarding the ACEC nomination.

The maintenance of cultural resources is of particular concern in parcel UT0808-047. FLPMA requires the Secretary of the Interior to "prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values." FLPMA §202, 43 U.S.C. §1711(a). Surveys for cultural resources are also mandated by ARPA (See, ARPA §14, 16 U.S.C. 470ii, requiring the Secretary of the Interior to develop plans for surveying lands to determine the nature and extent of archaeological resources and to prepare a schedule for surveying lands that are likely to contain the most valuable archaeological resources) and by Executive Order 11593, Protection and Enhancement of the Cultural Environment (requiring federal agencies to nominate to the Secretary of the Interior all sites that appear to qualify for listing on the National Register of Historic Places). Further, the NHPA mandates that the BLM establish a preservation program to identify, evaluate, and protect historic properties, and to nominate qualifying

properties to the National Register of Historic Places. See, NHPA §110, 16 U.S.C. 470h-2.

These inventories and programs could serve to identify areas of resource sensitivity and could be used proactively by the Cedar City Field Office in its planning and management in order to avoid resource conflicts. To date, however, the BLM's inventories have been woefully inadequate for that purpose. The Cedar City Leasing EA must clearly spell out how the BLM intends to remedy this situation, complete a comprehensive inventory of its lands for cultural resources, and fully comply with the relevant sections of the NHPA, FLPMA, ARPA, and Executive Order 11593. In addition, the Hopi Tribe has also expressed their strong support of the Parowan Gap ACEC nomination because of significant ancestral cultural resources located within the area. See Letter from Leigh J. Kuwanwisiwma, Director of Hopi Cultural Preservation Office, to Todd Christensen, BLM Cedar City Field Office (July 1, 2008). See also Letter from Ti Hays, National Trust for Historic Preservation to Terry Catlin, BLM State Office (June 30, 2008) (supporting SUWA's Parowan Gap ACEC nomination). In addition, the Hopi tribe has previously commented that, due to extensive cultural resources in the area, the boundaries of the ACEC could be expanded. Id. Thus, before leasing parcel UT0808-047, BLM must consult with the Hopi Cultural Preservation Office and Cultural Resources Advisory Task Team. Consultation via form letter is not sufficient. See Pueblo of Sandia v. United States, 50 F.3d 856 (10th Cir. 1995). Rather, the consultation must be an in-depth and meaningful endeavor. Furthermore, a cooperative agreement with the Hopi tribe should be used for protecting and otherwise managing archaeological resources.

BLM must consult with the SHPO and obtain SHPO concurrence before proceeding with the lease sale. Although the final EA has not yet been released, the draft EA indicates that BLM has not yet obtained SHPO concurrence. Environmental Assessment, UT-040-08-036, Oil and Gas Leasing in the Eastern Portion of the Cedar City Field Office, at 6-7 (May 2008). If BLM goes forward with the lease sale without first concurring with SHPO, it will violate the NHPA.

The BLM must prioritize consideration and designation of the Parowan Gap ACEC *before* leasing parcel UT0808-047. Well exploration and development, and subsequent off-road vehicle use may impair the values contained in the nominated ACEC, most notably by increasing access to the spectacular cultural resources found in the area. In addition, the proximity of this parcel to the proposed ACEC would damage visual resources in and around Parowan Gap. See, e.g., Parowan Gap ACEC Nomination, at 12 (Photo 12). The BLM must devise and implement management strategies which protect those values identified in the ACEC nomination.

The significant new information discussed in SUWA's Parowan Gap ACEC Nomination is not considered, analyzed, or even mentioned in the Cedar City Draft Leasing EA and thus BLM must defer leasing UT0808-047 until the agency prepares a supplemental NEPA analysis.

4. BLM Must Defer Leasing Parcels UT0808-074 and UT0808-075 Because Drilling Will Impact the Viewsheds into the Spring Creek Canyon Wilderness Study Area and the Kolob Section of Zion National Park

Cedar City parcels UT0808-074 and UT0808-075 are adjacent to Spring Creek Canyon WSA, and parcel UT0808-075 is also adjacent to Zion National Park. The viewsheds of both areas are spectacular and drilling in the areas would irreversibly mar

these spectacular visual resources. A brief discussion of visual resources in the Leasing EA without describing the VRM Classification of the particular parcels is insufficient to maintain the stunning visual resources in and adjacent to parcels UT0808-074 and UT0808-075. See Draft Cedar City Leasing EA at 32, 54-55, 69. Therefore, BLM must defer leasing until it adds a Visual Resource Management (VRM) Classification II stipulation to parcel UT0808-075 and adequately protects the visual resources of parcel UT0808-074 by clearly expressing their classification in the Final EA.

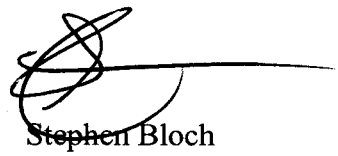
5. Leasing Parcel UT0808-074 and UT0808-075 – Lands and Minerals Acquired in 2002 – Was Never Analyzed

BLM acquired the minerals proposed for lease in parcels UT0808-074 and UT0808-075 in 2002 from the Conservation Fund. In subsequent NEPA analysis BLM did not consider whether or not these minerals would – or should – be available for leasing and if so under what circumstances. As such, BLM has failed to prepare an adequate pre-leasing NEPA analysis for the sale of these two parcels. The draft Cedar City Leasing EA makes no specific mention of these parcels and does not consider whether or not they should be available for lease or what stipulations are appropriate to protect their wildlife, watershed, and other resource values.

REQUEST FOR RELIEF

SUWA requests the following appropriate relief: (1) the withdrawal of the seven protested parcels from the August 19, 2008, Competitive Oil and Gas Lease Sale until such time as the agency has complied with NEPA and the NHPA or, in the alternative (2) withdrawal of the seven protested parcels until such time as the BLM attaches unconditional no surface occupancy stipulations to all protested parcels.

This protest is brought by and through the undersigned field advocate on behalf of the Southern Utah Wilderness Alliance. Members and staff of SUWA reside, work, recreate, or regularly visit the areas to be impacted by the proposed lease sale and therefore have an interest in, and will be affected and impacted by, the proposed action.



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